1952. **File No.** Stamps II/52 (R)

Legal Deptt.

B BRANCH p.2(E)

Subject:— Rules under the Indian Stamp Act, 1899

File No. Stamps II/52(R).

Gen. 194

392-B

Legal Department.

A revided draft notification is sent herewith Amendment No. 3 in the Deptt's draft at p. 51/c. The reasons for proposing this amendment have been given in para 4 of the Superintendent's report at pages 31-33/c. It has been noticed that the members of the mercantile community are not observing the distinction between agreement notes and brokers notes and are stamping their contracts with brokers note stamps. In order to legalise this practice, it is proposed to amend rule 19(f) and to allow them to stamp these instruments with stamps bearing either the words "Agreement" or "Brokers Note". The proposal is not legally feasible. The agreements falling under article 5 and the brokers notes falling under article 43 in Schedule 1 are quite distinct and recognised as such by the Indian Stamp Act, 1899 as amended by the Bombay Finance Act, 1932. In some cases the proper stamp duty under the two articles is different.

2. A Broker's Note and Agreement are two very different instruments and it would not be desirable to obliterate the distinction by allowing both to be stamped as "agreement" or as "broker's note". The distinction is recognised by statute and ought properly to be maintained. If the distinction is not known in certain places then perhaps steps may be taken to

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give publicity to the distinction, rather than changing the law. Again no hardship will result as Rule 20 gives a discretion to the Collector in proper cases.

3. The object to dis regard this distinction cannot be carried out by amending the rules, whatever may be the practical difficulties. The rule making power conferred by section 10(2)(a) of the Stamp Act cannot be used to prescribe discription of stamps which would obviously be improper and inconisitent with articles 5 and 43 and section 37. The distinction has, therefore, been retained in the revised draft.

o.c.

Additional Deputy Secretary to Government.

F.C. signed by the Addl. D.S.

U.R.to R.D.No. 11270 dated, the 8th July 1952.

MM

29/6.